



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: December 12, 2013

Approved

Date

12/19/13

COUNCIL DISTRICT: 8

SUBJECT: EVERGREEN 202 - MODIFICATION OF THE CITY OF SAN JOSE URBAN SERVICE AREA (USA) BOUNDARY TO COINCIDE WITH THE 15% SLOPE LINE AS DETERMINED BY LIGHT DETECTION AND RANGING TECHNOLOGY (LIDAR), AND TO INCLUDE AN APPROXIMATELY 0.28 GROSS ACRES OF COUNTY LAND FROM THE SUBJECT 2.84 GROSS ACRE SITE, LOCATED ON THE EAST SIDE OF QUIMBY ROAD APPROXIMATELY 440 FEET EAST OF MURILLO ROAD, INTO THE CITY'S URBAN SERVICE AREA

RECOMMENDATION

Adopt a resolution and direct staff to submit an application to and work with County Local Agency Formation Commission (LAFCO) to modify the City's Urban Service Area (USA) to include approximately 0.28 gross acres of County land on a 2.84 gross acre site on the east side of Quimby Road approximately 440 feet east of Murillo Road.

OUTCOME

If approved, the resolution would allow the City to apply to LAFCO for approval of a minor modification of the USA boundary to be consistent with the 15% slope line that establishes the Urban Growth Boundary as described in the General Plan.

BACKGROUND

The minor boundary modification request will allow inclusion of 0.28 gross acres from the 2.84 gross acre subject site, located on the east side of Quimby Road approximately 440 feet east of Murillo Road (see attached Legal Description and maps), into the City's Urban Service Area. The request is consistent with City Policies that confine development to below the 15% slope

line, and is supported by data from the new Light Detection and Ranging technology, LIDAR, that the City uses to confirm the location of the 15% slope line.

The 2.84 gross acre subject site consists of two (2) parcels of gently sloping open grassland under the same ownership (Assessor's Parcel Numbers 659-25-001 and -002). It contains a single-family residence and associated accessory structures, and is surrounded by single-family detached residences to the north, open hillside to the east, an existing church to the south, and single-family detached residences to the west across Quimby Road.

A General Plan Amendment request (File No. GP09-08-02) was approved by the City Council on February 10, 2010, to change the San José 2020 General Plan Land Use/Transportation Diagram land use designation from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) on 1.7-acres portion of the subject site. The City Council concluded that the General Plan Amendment would allow for development that would retain a consistent lot pattern with the adjacent neighborhood across Quimby Road, and also protect hillside areas above the 15% slope line. Subsequently, with the approval of the Envision San José 2040 General Plan by the City Council on November 1, 2011, the land use designation of the subject site was changed once again, this time to another split designation of Lower Hillside encompassing 1.57 gross acres and Open Hillside on the remaining 1.23 gross acres.

In 2011, LAFCO and the City of San José conducted a series of meetings to compare the City's USA boundary with an accurate parcel-based 15% slope line derived from an independent LIDAR analysis conducted for the subject site. The analysis identified a minor discrepancy that could be corrected administratively by modifying the USA boundary and aligning it with the 15% slope line (as well as the Urban Growth Boundary which is co-terminus with the 15% slope line). The USA boundary presently covers a 1.57 gross acre portion of the subject site with frontage on Quimby Road. The proposed correction will result in the expansion of the City's Urban Services Area by 0.28 gross acres, thereby growing the portion of the site fronting on Quimby Road and eligible for Urban Services to 1.85 gross acres. The remainder 0.99 gross acres portion of the site, which is above the 15% slope line, will remain outside of the USA boundary. Therefore, should the requested modification be approved, the USA boundary would coincide with the 15% slope line/Urban Growth Boundary at this location as intended by the General Plan.

On February 14, 2012, the City Council approved a Planning Development Rezoning (File No. PDC10-002) to pre-zoning the subject 2.84 gross acre site from unincorporated County to A (PD) Zoning District to allow the development of up to seven (7) single-family detached residences. The conceptual site plan showed four (4) lots fronting onto Quimby Road, and three (3) flag lots located further up the hill and accessed via a private drive from Quimby Road. All seven (7) residences were approved below the 15% slope line on 1.85 acres. The 0.99 acres behind the three flag lots, and above the 15% slope line, was zoned as Hillside, precluding any development.

An Initial Study (IS) and Mitigated Negative Declaration (MND) were prepared by the Director of Planning, Building and Code Enforcement for the Planned Development Rezoning (File No.

PDC10-002) and the documents were circulated for public review between November 18, 2011 through December 7, 2011. The MND, adopted by Council Resolution number 76134 on January 24, 2012, stated that the proposed Planned Development Zoning will not have a significant effect on the environment. The primary environmental issues addressed in the Initial Study include the potential impacts of the physical development of the site on air quality, biologic resources, and geology and soils. The MND includes mitigation measures that would reduce any potentially significant project impacts to a less-than-significant level. The mitigation measures were included in the project in the form of development standards for the Planned Development Zoning, as well as in the Mitigation Monitoring Program. The MND and Initial Study are available for review on the Planning web site at: www.sanjoseca.gov/planning/eir/MND.asp.

ANALYSIS

The 0.28 acre portion of the subject site, previously described, has been determined to be below the 15% slope line, and its proposed inclusion into the USA boundary conforms to the City's General Plan and Santa Clara County LAFCO policies in that it confines development to below the 15% slope line.

The City's Planning staff believes that as this discrepancy is a geographic/mapping error, it may be rectified through a minor USA boundary modification with the concurrence of LAFCO, and without the need for a General Plan Amendment.

The proposed adjustment of the USA boundary allows urban development to occur on the site and establishes the site's eligibility to receive City services that are available in close proximity to the site. This adjustment is expected to create a negligible impact on City services because of its size, location and number of inhabitants, and the capacity of the existing infrastructure that will provide services to the subject property. Since urban services are presently available to the adjacent areas to the west of the site, the requested amendment will not have a direct impact on the provision of services.

A prior rezoning (File Number PDC10-002) was approved on the subject site to allow the development of up to seven (7) single-family detached residences that conforms to the accurate USA boundary. The area is bounded by the City of San José, and its inclusion into the USA is appropriate for the purposes of providing urban services in an efficient manner. Furthermore, the requested minor modification of the USA will allow the applicant to procure future development services for the subject site.

EVALUATION AND FOLLOW-UP

If LAFCO approves the City's petition for the approval of the USA modification, a Certificate of Completion will be recorded that includes a LAFCO Resolution, and a map and legal description that delineates the modification of the USA boundary.

PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1:** Requires Council action on the use of public funds equal to \$1,000,000 or greater.
(Required: Website Posting)
- ☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, Outreach will occur consistent with Council Policy 6-30: Public Outreach for Pending Land Use and Development Proposals. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The requested modification of USA was also published in a local newspaper, the Post Record. This memorandum has been posted on the City's website, and staff has been available to respond to questions from the public.

COORDINATION

This memorandum was discussed with the Local Agency Formation Commission and the City Attorney's Office.

COST SUMMARY/IMPLICATIONS

The proposed inclusion into the USA has been determined to create a negligible impact on City services because of its size, location and number of inhabitants.

CEQA

Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that the proposed modification of the USA and UGB boundary is pursuant to and in furtherance of the Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan, which findings were adopted by City Council Resolution No. 76041 on November 1, 2011. The Program EIR was prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2040, and does not involve new significant effects beyond those analyzed in this Final EIR.

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The prior Planned Development Rezoning (File No. PDC10-002) included an Initial Study (IS) and Mitigated Negative Declaration (MND), prepared by the Director of Planning, Building and Code Enforcement. The documents were circulated for public review between November 18, 2011 and December 7, 2011, and the MND Resolution number 76134 adopted by Council on January 24, 2012.

/s/

JOSEPH HORWEDEL, DIRECTOR

Planning, Building and Code Enforcement

For questions please contact Salifu Yakubu, Division Manager, at 408-535-7911.

Attachments: Legal Description/Maps

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Beginning at the northeasterly corner of that certain 34.975 acre tract of land lying within the Rancho Yerba Buena, shown as Parcel 2 on the Parcel Map recorded at Book 681 of Maps, Page 38, Santa Clara County Records; Thence along the northerly line of said Parcel 2, said line also being the southeasterly line of Lot One, as said Lot is shown on a Map entitled, "Map of the Subdivision of Lot "L" forming a part of the partition of the Yerba Buena Rancho", which Map was filed for record in the office of the Recorder of the County of Santa Clara, in Book "A" of Maps, page 90, South 57° 59' 37" West, 530.71 feet, to the Southeasterly corner of that certain 2.84 acre (more or less) Parcel transferred into the Tammy Huang and Euson Huang Trusts by Grant Deed recorded May 22, 2008 as Document No. 19862843, Official Records, Santa Clara County;

Thence continuing along said line, South 57° 59' 37" West, 215.08 feet; Thence across said Huang Parcel, generally following the "15% Slope Line" the following three courses: 1) North 15° 50' 13" East, 33.84 feet; 2) North 25° 40' 39" West, 68.23 feet; 3) North 31° 59' 01" West, 74.63 feet, to the northerly line of said Huang Parcel;

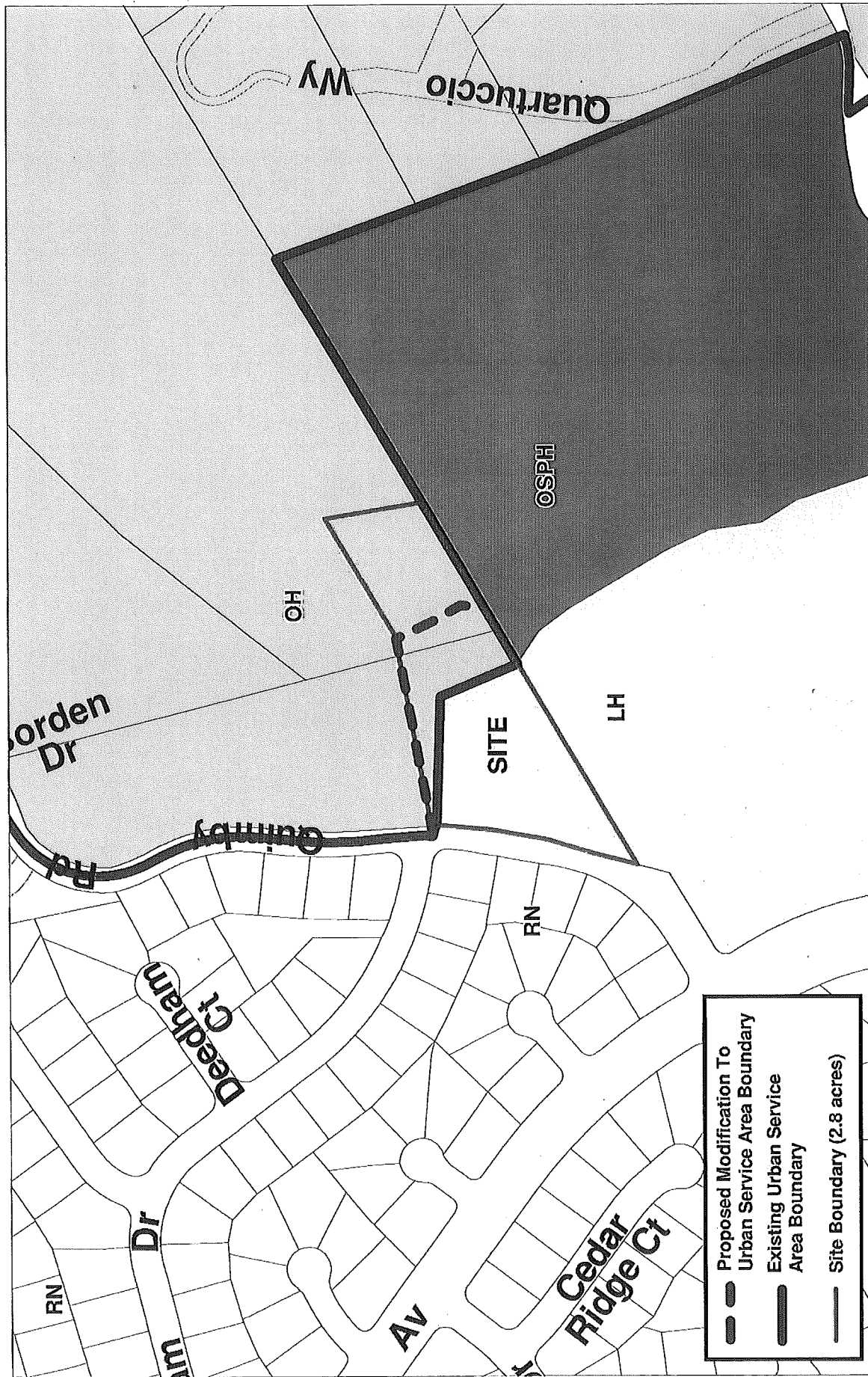
Thence along said northerly line, South 80° 54' 37" West, 280.39 feet to the centerline of Quimby Road, and the Point of Termination of this description.

And being within Lot "B2" as said Lot is shown on the Map accompanying the Report of the Referees in the Partition suit of Matilda Chaboya, et al vs. Salvador Chaboya, et al in the District Court of the Third Judicial District of the State of California, in and for the County of Santa Clara, SUI 2412, and within Lot One of the aforementioned Subdivision of Lot "L", Surveyed July, 1942 by Raymond W. Fisher, Surveyor and Civil Engineer, San Jose, California.

APN: 659-25-001, 659-25-002

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File No: **EVERGREEN 202**
 District: **8**



Prepared by the Department of Planning,
 Building and Code Enforcement
 05/16/2012

GENERAL PLAN